

## **§ 701.62**

(b) The U.S. Forest Service is responsible for the technical phases of practices or components of practices involving the planting of trees for forestry purposes and those involving the improving or protecting of a stand of forest trees, as specified in State and county programs. The U.S. Forest Service may utilize the assistance of private, State or Federal agencies in carrying out these assigned responsibilities, but services of State forestry agencies will be utilized to the extent that such services are available.

(c) The technical assistance to be furnished in servicing assigned practices will include, where appropriate, the following technical phases:

(1) Determining whether the practice is needed and practicable;

(2) Selecting the site (if necessary), complying with environmental and cultural regulations, determining the specific measures needed, and performing any required layout work for the practice;

(3) Supervising the installation of the practice if needed to assure conformity with specifications; and

(4) Certifying the extent performed and whether the specifications for the practice have been met. The technical agency shall perform all four phases for all assigned practices in State and county programs, except as may be provided in instructions issued by the Deputy Administrator, State and County Operations.

### **§ 701.62 Items of cost on which rates of cost-sharing may be based.**

Except as otherwise provided by the specific FSA procedural handbooks, notices, and regulations, the cost of any direct and significant factor in the performance of a practice may be considered in establishing the rate of cost-sharing for the practice.

### **§ 701.63 Handbook, bulletins, instructions, and forms.**

The Deputy Administrator, State and County Operations is authorized to prepare and issue handbooks, bulletins, instructions, and forms, required in administering these programs. Copies of handbooks, bulletins, instructions and forms, containing detailed information on these programs as they apply to spe-

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cific States, counties, areas, farms, ranches and other eligible ownerships, will be available in the office of the State committee and the office of the county committee.

### **§ 701.64 Opportunity for requesting cost-shares.**

Farmers, ranchers, eligible landowners, or eligible persons, regardless of race, sex, religion, color, or national origin, shall be given an opportunity to request that the Federal Government share in the cost of those practices they consider to be needed on their farm, ranch, or other eligible land. The county committee shall direct the available funds for cost-sharing to those practices where cost-sharing is considered most essential to the accomplishment of the program objective.

### **§ 701.65 Repair, upkeep and maintenance of practices.**

Cost-sharing is not authorized for repairs or for normal upkeep or maintenance of any practice.

### **§ 701.66 Public benefits when installing practices.**

Persons responsible for any aspect of performing practices are to be encouraged to install the practices in such a way to promote public benefits by improving or preserving environmental quality and ecological balance by preventing or abating pollution and other environmental degradation; benefiting the community by such means as preserving open space, or enhancing the appearance of the area; benefiting wildlife and other desirable life forms; preserving historic, archeological, or scenic sites, wetlands, ecologically critical areas and prime farmlands; avoiding the creation of hazards to persons or animals and avoiding actions that may adversely affect an endangered or threatened species and flood plains.

### **§ 701.67 Payments for uncompleted practices.**

Cost-shares approved under these programs will not be considered as earned until all components of the approved practice are completed in accordance with applicable specifications and program provisions. Cost-shares

for completed components may be paid only on the condition that the farmers, ranchers, or eligible landowners, will complete the remaining components of the practice within the time prescribed by the county committee regardless of whether cost-sharing is offered for them, unless they are prevented from doing so because of reasons beyond their control.

**§ 701.68 Practices involving the establishment or improvement of vegetative cover.**

(a) Costs for practices involving the establishment or improvement of vegetative cover, including trees may be shared even though a good stand is not established, if the county committee determines, in accordance with standards approved by the State committee, that the practice was carried out in a manner which could normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the operator. The county committee may require as a condition of cost-sharing in such cases that the area be reseeded or replanted or that other needed protective measures be carried out. Cost-sharing in such cases may be approved also for repeat applications of measures previously carried out or for additional eligible measures. Cost-sharing for such measures shall be approved to the extent such measures are needed to assure a good stand even though less than that required by the applicable practice wording for initial approvals.

(b) In the case of Foresty Incentives Program, replanting of trees is required where the landowner received cost-sharing for site preparation.

**§ 701.69 Failure to meet minimum requirements or failure to comply fully with program provisions.**

(a) Notwithstanding other provisions of these programs, costs may be shared for performance actually rendered even though the minimum requirements for a practice are not met, if the farmer, rancher, eligible landowner, or eligible person establishes to the satisfaction of the county committee and the county representative of any other agency having responsibility for technical

phases of the practice that a reasonable effort was made to meet the minimum requirements and that the practice as performed adequately solves the problem.

(b) Notwithstanding the provisions in paragraph (a) of this section, the terms and conditions of contracts entered into pursuant to programs in this part may be modified to grant relief when the Deputy Administrator, State and County Operations, determines that a person acting in good faith failed to fully comply with the program provisions.

**§ 701.70 Practices carried out with aid from ineligible persons.**

(a) Except as provided in paragraph (b) of this section, financial assistance which is made available, or will be made available, to a program participant from a person ineligible for cost-share assistance under this part for the practice, including aid from a State or Federal agency other than assistance made available under this part, shall be deducted from the program participant's total costs incurred for the practice for purposes of determining the applicant's eligible reimbursable costs under this part.

(b) Third party contributions need not be deducted under paragraph (a) of this section where it is determined by the State ASC Committee, in accordance with instructions of the Deputy Administrator, State and County Operations (DASCO), FSA, that an exception would be in furtherance of program objectives. However, the total cost-share paid may not, in any case, exceed the net contribution (exclusive of any contribution by ineligible persons) otherwise made by the applicant to the cost of carrying out the practice.

[56 FR 46368, Sept. 12, 1991]

**§ 701.71 Division of cost-shares.**

(a) The cost-share for a practice shall be credited to the person who carried out the practice. If more than one person contributed to the carrying out of the practice, the cost-share for the practice shall be divided among those persons in the proportion that the county committee determines they contributed to the carrying out of the